

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**CATHY KING, an individual, and  
STEVE KING, an individual,**

**Plaintiffs,**

**vs.**

**PFIZER, INC., WYETH, LLC, WYETH  
PHARMACEUTICALS, INC., SCHWARZ  
PHARMA, INC., PLIVA, INC., JOHN  
DOE PHARMACEUTICAL COMPANIES  
1-40, and ACURA PHARMACEUTICALS  
INC., formerly known as HALSEY DRUG  
COMPANY, INC.,**

**Defendants.**

**8:13CV290**

**ORDER OF DISMISSAL  
OF A PARTY**

This matter is before the Court on Plaintiff Cathy King, Plaintiff Steve King (the “Kings”), and Defendant Acura Pharmaceuticals, Inc.’s (“Acura”) Stipulation to Dismiss Defendant Acura Pharmaceuticals, Inc. without Prejudice (Filing No. 57). The Stipulation complies with Federal Rule of Civil Procedure 41(a)(1)(A)(ii), and the Court concludes that it should be approved. Claims asserted by the Kings against Acura in the above-captioned action will be dismissed without prejudice. The parties will pay their own costs and attorney fees, and if Acura is affirmatively identified in this action as a manufacturer, seller, distributor, or marketer of metoclopramide provided to Plaintiff Cathy King, it will not assert a statute of limitations defense arising solely as a result of the passage of time between Acura’s first receipt of the Kings’ complaint and the filing of an amended complaint formally adding Acura as a party. Accordingly,

IT IS ORDERED:

1. The Kings' and Acura's Stipulation to Dismiss Defendant Acura Pharmaceuticals, Inc. without Prejudice (Filing No. 57) is approved;
2. Claims asserted by the Kings against Acura in the above-captioned action are dismissed without prejudice;
3. The parties will pay their own costs and attorney fees; and
4. If Acura is affirmatively identified in this action as a manufacturer, seller, distributor, or marketer of metoclopramide provided to Plaintiff Cathy King, it will not assert a statute of limitations defense arising solely as a result of the passage of time between Acura's first receipt of the Kings' complaint and the filing of an amended complaint formally adding Acura as a party.

Dated this 17<sup>th</sup> day of December, 2014

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge